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## The Clinton Regulatory Juggernaut Slows — At Least for Now

The Clinton Administration's latest release of its biannual Unified Agenda of Federal Regulations reveals that the Administration — at least momentarily — has become responsive to congressional concerns of overregulation. The statutorily-required report, issued on May 8, documents that the Administration has reduced by 21 percent (from 4,300 to 3,400) the number of proposed and final regulations it is scheduling for action during the next six months compared to the projection the Administration made in its previous Unified Regulatory Agenda, issued November 9, 1994. The May 8 Unified Agenda also indicates the Administration withdrew 895 proposed or final rules between October 1994 and March 1995, over 7 times as many as during the six months preceding the November 1994 Unified Agenda and the mid-term elections.

It is an open question as to whether the regulatory withdrawals represent a true moderation in the Administration's approach to regulatory activities, or merely provide the Administration cover while it waits to see if regulatory reform makes it to — and past — the President's desk. However, of the 290 withdrawals by agencies other than the IRS, almost half do not appear to be permanent. For example, in only 13 of the EPA's 102 withdrawals, did the agency state that "no further action [was]



planned at this time." The 89 other EPA withdrawals contained only the comment that "the Agency does not plan to publish action within the next 12 months," leaving the door wide open for future regulatory activity.

Observers are waiting to see what the next several months will bring. A proposed regulatory action recently withdrawn may well be resurrected at a later time, a more politically expedient time. For example, two weeks after Senate passage of S. 219, the EPA announced its withdrawal from OMB of its draft final rule for the Clean Air Act's enhanced monitoring requirement, one of its most controversial regulatory proposals. While the withdrawal was accompanied by a promise to develop a whole new proposed rule, a problematic portion dealing with the use of monitoring data for enforcement purposes may still be issued as a final rule as early as September.

## **Administration Reacts to New Direction from Congress**

It is no coincidence that this slowdown in regulations and increased withdrawals have occurred as Congress revved up its anti-regulatory guns early in the 104th Congress, with House passage of its regulatory moratorium bill in late February, and its regulatory reform bill in March, followed by Senate action in late March on a 45-day congressional review procedure for regulations. As evidence the agencies finally began to realize the significance of the mid-term elections, fully 83 percent of the withdrawals indicated by the May 8 Unified Agenda occurred in just the last two months of the October 1, 1994 to March 31, 1995 period.

On March 16, 1995, as part of their "Reinventing Government" initiative, the President and Vice President issued a special report, entitled, "Reinventing Environmental Regulation," which identifies 25 environmental regulatory priorities and outlines 10 principles the agencies should follow when developing regulations. While the principles include minimizing costs and basing regulations on sound science, the list fails to include the critical issue of subjecting regulations to a cost-benefit analysis. Thus, this effort appears aimed at improving the regulatory process, but will not reduce the number of regulations on the books or their broad scope. Significantly, more than 80 percent of the regulatory withdrawals from the Environmental Protection Agency occurred in the last few weeks of March or early April, following the Reinventing Environmental Regulation announcement.

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